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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,161	01/09/2004	Robert Daniel Burn III	15436.249.41.1	7487
22913 7590 01/26/2007 WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			EXAMINER KIM, ELLEN E	
			ART UNIT 2874	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	
3 MONTHS			01/26/2007	
			DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/754,161

Applicant(s)

BURN, ROBERT DANIEL

Examiner

Ellen Kim

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**.
- 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-21 is/are allowed.
- 6) ☒ Claim(s) 1,2,7-11,13-15 and 22-34 is/are rejected.
- 7) ☒ Claim(s) 3-6,12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

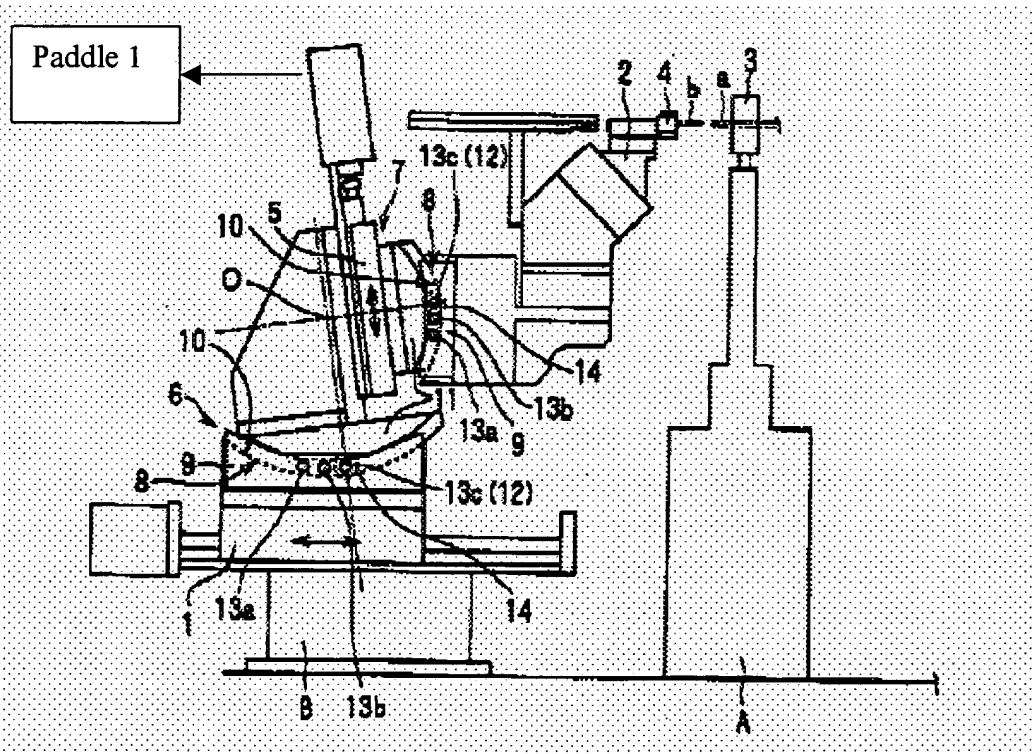
DETAILED ACTION

This is responsive to Applicant's amendment filed on 11/13/06.

Response to Arguments

Applicant's arguments, filed 11/13/06 have been fully considered but they are not persuasive. Applicant argues that the second stage component 5 in Tsuda referred to by examiner is engaged by a movement mechanism to move the second stage 5 in a second linear direction in the Y axis direction (as opposed to rotationally as alleged).

Examiner acknowledges that the second stage component 5 in Tsuda is moving in a second linear direction in the Y axis direction, but also notes that all the members [including 7, 11, Paddle 1 as shown in below] attached to the component 5 are rotating because of the rotation of the movable members 11.



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In re claim 29, applicant argues that the Examiner has failed to address the elements, especially, "a component mount configured to mount a device at or near the rotational center of the alignment carriage."

Examiner notes that Examiner clearly mentioned in claim 32, the component mount 2 is shown. Note that claim 32 is dependent on claim 29, and it is clear that the component mount 2 should be at or near the rotational center of the alignment carriage in broad interpretation.

Applicant further argues that Examiner has not established the Tsuda teaches the element, "means for engaging the at least one rotation paddle to selectively rotate the alignment carriage".

Examiner does not agree with Applicant because Examiner clearly indicated in the previous Office action that the mechanism of the movement of element 5 clearly shows the means for engaging the at least one rotation paddle to selectively rotate the alignment carriage. As discussed above, the Paddle 1 is engaged to means [including member 5] so that the means selectively rotate the alignment carriage.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 7, 9-11, 13-14, 22-25, 27-32 and 33 are rejected under 35

U.S.C. 102(e) as being clearly anticipated by Tsuda et al [UsPAT 6,931,752].

In re claims 1, 2, 7, 9-11, 13-14, 22-25, 27, and 28, Tsuda et al disclose an optical device alignment mounting stage comprising:

A base [see B in fig. 1];

An alignment carriage [see all the members attached to the component 11];

At least one rotation paddle [see paddle attached to the component 5];

and

Means [see the mechanism of the movement of element 5] for engaging the at least one rotation paddle to selectively rotate the alignment carriage.

In re claims 2, 23, 24, 27, 32, and 33, a component mount 2 is shown.

In re claims 7, and 22, a spherical shape is shown in member 11.

In re claims 10, 11, and 31, Tsuda et al clearly show in column 4, lines 32-44 and fig. 1 that the claimed three different rotation axis.

In re claim 14, it is clear that any stage other than the alignment stage, the component mount, and base is considered as a translation stage [e.g., stage 1, any stage near component 8].

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 15, 26, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuda et al.

In re claim 8, Tsuda et al disclose every aspect of claimed invention except for the contact points being composed of a metallic material.

Official Notice is taken that the contact points being composed of a metallic material for the purpose of solid alignment of the device is old and well known in the art.

See In Re Malcolm 1942 C.D. 589:543 O.G. 440 MPEP 706.02 (a).

Therefore, it would have been obvious to the ordinary skilled person in the art at the time the invention was made to modify Tsuda et al device to include the contact points being composed of a metallic material for the purpose of solid alignment of the device.

In re claim 15, Tsuda et al disclose every aspect of claimed invention except for the at least one rotational control assembly which is automatically controlled.

It would have been obvious to the ordinary skilled person in the art at the time the invention was made to be automatically controlled, since it has been held that broadly providing a mechanical or automatic means to replace manual activity, which has

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accomplished the same result involves only routine skill in the art. In re Venner, 120

USPQ 192.

In re claims 26 and 34, Tsuda et al disclose every aspect of claimed invention except for the quarter-shaped segment alignment carriage.

It would have been obvious to the ordinary skilled person in the art at the time the invention was made to modify the device to include the quarter-shaped segment alignment carriage, since it has been held that numerous configurations are obvious to the ordinary skilled person in the art. In re Dailey, 149 USPQ 47 (CCPA 1976).

Allowable Subject Matter

Claims 3- 6, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not disclose or suggest an optical device alignment mounting device comprising all the specific components with the specific combination including a means for engaging a pitch rotation paddle, a means for engaging a roll rotation paddle, and a means for engaging a yaw rotation paddle as set forth in claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

For all official patent application related correspondence for organizations reporting to the Commissioner of Patents:

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- Correspondence that is transmitted by facsimile must be directed to the central facsimile number, (703) 872-9306.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen Kim whose telephone number is (571) 272-2349.

The examiner can normally be reached on Monday through Thursday.

Ellen E. Kim

Primary Examiner

January 19, 2007/EK

A handwritten signature in black ink, appearing to be 'E. Kim', written over the printed name and title.